IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.8 OF 2007

IN

SUMMARY SUIT NO.2795 OF 2006

Jitendra N. Rijhwani ...Plaintiff.

vs.

1.Oshiwara Motels Pvt.Ltd.
and another. ...Defendants.

Ms.K.C.Lalwani, for Plaintiff.

Mr.Kapil Shete i/b. K.P.Tiwari & Co., for Defendant nos.1 and 2.

CORAM: D.K.DESHMUKH, J.

DATED: 6th MARCH,2007.

P.C.:

1. The suit of the plaintiff is based on the demand bill of exchange drawn by defendant no.1 and accepted by defendant no.2. Repayment of Rupees One lakh, according to the plaintiff, has been made. For the balance amount with interest, the suit has been filed. The defendants do not deny that they are drawer and acceptor of the bill of exchange. They accept that they have made payment of Rupees One lakh. to the plaintiff. But they claim that the

suit is still barred by the law of limitation. The part payment of Rupees one lakh is made, according to the plaintiff, on 1.10.2003 and the suit has been filed on 21.9.2006. therefore, from the date of part payment the suit is within limitation. The bill of exchange is dated 9.12.2000 and the part payment is also made within time. When the part payment is made by cheque, it will amount to acknowledgement and will extend period of limitation and therefore, the defendants are not justified in saying that the suit is barred by the law of limitation.

2. There is no other defence put up by the defendants. Therefore, the defendants are not entitled to leave to defend. The summons for judgment is, therefore, granted. Suit of the plaintiff is decreed in terms of prayer clause of the suit. Refund of court fees as per rules.